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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,774	11/09/2001	Ting Wang	RID 01058 (03259-00018)	9156

7590 06/18/2003

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EXAMINER

FOSTER, JIMMY G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/18/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/039,774

Applicant(s)
Wang et al.

Examiner
Jimmy G. Foster

Art Unit
3728



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 10, 12, 13, 20-23, 28-35, 37, 38, 43-46, 53-55, and 59-64 is/are rejected.
- 7) ☒ Claim(s) 5-8, 11, 14-19, 24-27, 36, 39-42, 47-52, and 56-58 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4.5 6) ☐ Other:

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1. Claims 31-33 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In each of claims 31, 32 and 33 there is no antecedent basis for the treating step.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-4, 9, 10, 12, 13, 20, 34, 35, 37, 38 and 43-46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Laurie et al (4,057,141) in view of Cohen et al (5,914,364) and Johnson et al (4,537,928). The reference of Laurie et al discloses baling plural used rubber automotive tires. The tires are compressed (see Figs. 3 and 4) into a bale, and the bale of tires is contained by baling wires. The baling wires define a container. Each compressed tire/piece is in planar form, including a hole/void in its central area. Between the adjacent V-shaped openings 20 in each tire, the tire may be considered to include short strips.

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While the reference of Laurie et al does not disclose that the rubber material of the tires/pieces includes a filler, the references of Cohen et al, at column 1, lines 17-30, and Johnson et al, at column 1, lines 12-23, suggest that providing/mixing fillers, such as carbon black or sulfur, to rubber material of automotive tires is an industry standard, for the purpose giving the rubber material of tires a property of abrasion resistance or for the purpose of curing the rubber. Accordingly, one of ordinary skill in the art would expect the used tires of Laurie et al to have included a filler with the rubber, and therefore one of ordinary skill in the art would have found it obvious to have provided the rubber material in the tires/pieces of Laurie et al with filler materials, for the purpose which has given the tires abrasion resistance or which has cured the rubber material.

Regarding the limitations calling for the bale to include a 3% void volume, the holes of the tires of Laurie et al are considered to provide a void in the bale that is greater than 3% of the volume of the bale. Inasmuch as the area of solid material for each tire is much greater than the area of the hole, the examiner asserts that the void volume of the bale falls within the range of 3%-40%.

4. Claims 21-23, 28-33, 53-55 and 59-64 are rejected under 35 U.S.C. § 103 as being unpatentable over the references as applied to claim 1 above, and further in view of Drews (5,316,708). The reference of Drews at column 2, lines 8-35 suggests that the recycling of old tires may include treating/shredding the tire material into pieces/pellets/

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granules having dimensions of ½ in. x ½ in. in a cement mixer/pelletizer/granulator/open mill and blending the material of the tires with a liquid latex and then compressing the mixture so as to form a block material, for the purpose of making building blocks for making building structures, such as dams, roads, detonation shields and firing range backstops. Accordingly, it would have been obvious in view of Drews to have shredded/pelleted/granulated the tires from the bale of Laurie et al, as modified above, and to have blended with latex the pelleted/granulated material of the used tires, for the purpose of creating building blocks for building structures out of the blocks.

5. Claims 5-8, 11, 14-19, 24-27, 36, 39-42, 47-52 and 56-58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. For contacting the PTO by phone, the following contact numbers may be used:

For tracking of papers and association of papers with cases --
Customer Service. . . (703)306-5648

For matters regarding examination -- Examiner:
Jim Foster (703)308-1505

For faxing of correspondence:

DRAFT Fax amendments only-(703)308-7769
(Examiner should be notified of fax)

FORMAL Fax correspondence-(703)305-3579 or 305-3580

RIGHT FAX- Before Final . . (703) 872-9302
After Final . . . (703) 872-9303
(The examiner ordinarily will not retrieve
formal correspondence)

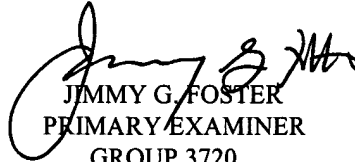
For petitions:
Before the Examiner . (703)308-1505

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Before the Group Director . (703)308-3872
Other petitions . . . (703)305-9282


JIMMY G. FOSTER
PRIMARY EXAMINER
GROUP 3720

JGF
June 12, 2003